

5. On page 1, line 19, strike "to make grants" and after "for" insert "studies, loans".,

Synopsis of HAGC Amendment #1

House Agriculture and Water Resources Committee amendment to House Bill 364 amends the legislation to reflect the following language:

1. On page 1, line 21, after "statewide" insert ", pursuant to the advice of a committee comprised of the state engineer, the secretary of environment, the secretary of the department of game and fish and the director of the New Mexico department of agriculture or their designees".,

Synopsis of Original Bill

House Bill 364 seeks to appropriate \$10,000,000 from the general fund to the Irrigation Works Construction fund for expenditure in fiscal year 2008 and subsequent fiscal years to make grants for and investments in on-farm irrigation efficiency improvements statewide. This appropriation may be used to match money from the federal government or from any other source for the same purpose. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

SIGNIFICANT ISSUES

OSE notes that irrigation is a major water use in New Mexico. Further, that if the state is to meet current and future water demands, federal environmental mandates, provide for future development, preserve water quality, and enhance the quality of life in New Mexico, conservation of water must be strongly pursued. Quantification of water irrigation efficiencies and their ultimate salvage or depletion of water resources is key to conserving irrigation water. Without impacting the already declining balance in the Irrigation Works Construction Fund, this appropriation would provide the means to execute the required pilot projects and grants, including control areas, that will enable a true understanding of improvements in irrigation methods that will benefit the farmer, the environment, and provide for protection and conservation of the state's water resources through reduction in current irrigation depletions.

OSE adds that because this appropriation would directly benefit farmers and the agricultural community as well as the environment, the Interstate Stream Commission would form an oversight team with representatives of the Department of Agriculture, the Environment Department, the Office of the State Engineer Water Use and Conservation Bureau, and the New Mexico Department of Game and Fish to ensure all interests and needs were represented in use of these funds (See AMENDMENTS).

NMDA advises that New Mexico agriculture faces ever-increasing pressure to convert land and water to non-agricultural use. On-farm irrigation efficiency is one tool that helps maintain the agricultural industry and the economic and cultural benefits it brings, while simultaneously making better use of our natural resources. NMDA further suggests that while federal funding does encourage some farmers to install irrigation improvements, the matching funds required by the federal programs – frequently 50 percent or more of total project costs – are often the limiting factor for increasing irrigation efficiency.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

NMDA raises the issue of possible conflict with existing statutes (72-14-24 and 72-14-29, NMSA 1978) and the anti-donation clause of the New Mexico Constitution.

OTHER SUBSTANTIVE ISSUES

OSE adds that Section 72-14-23 allows payment of “Project” costs from the Irrigation Works Construction Fund. Section 72-14-33 defines Project “to include and embrace all means of conserving and distributing water, including, without limiting the generality of the foregoing, reservoirs, dams, diversion canals, distributing canals, lateral ditches, pumping units, wells, mains, pipelines and waterworks systems and shall include all such works for the conservation, development, storage, distribution and utilization of water including, without limiting the generality of the foregoing projects for the purpose of irrigation, development of power, watering of stock, supplying of water for public, domestic, industrial and other uses and for fire protection.” This appropriation would follow that direction.

NMDA observes that HB364 calls for “grants and investments in on-farm irrigation efficiency improvements statewide.” Existing statutes say “It is therefore in order that the legislature declare that its policy is not that the state interstate stream commission should construct or repair irrigation works now owned or which will revert to private individuals or corporations...unless the individuals or stockholders of such corporations are also all owners of land under the irrigation works and users of water supplied by it for agricultural or domestic uses...” (72-14-24, NMSA 1978). If funds appropriated by HB364 are thereby limited to farms located within organized irrigation or conservancy districts, large areas of the state will not be served by this legislation.

NMDA additionally notes that the irrigation works construction fund may be used for loans, as provided in 72-14-29, NMSA 1978. A low-interest loan program administered through a larger number of special districts and political subdivisions would have the potential to reach a larger number of farms. Such a program has been available for several years; however, policies applied to the loan program have severely restricted use of the loan program for on-farm water conservation practices in river basins which are subject to interstate compacts, due to the perception that increased irrigation efficiency increases net depletions. This again would leave large areas of the state unable to benefit from the funds intended for water conservation.

ALTERNATIVES

NMDA suggests that, because the office of the state engineer and the Interstate Stream Commission have a mandate for delivery of water under interstate compacts, directing this funding to another agency which does not have this conflict of interest, such as New Mexico Department of Agriculture, would be one alternative to ensure that funds are available statewide.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OSE suggests that the state would not have a clear understanding of improvements in irrigation efficiencies, how and if they benefit irrigators, or how those improvements do or do not conserve and make more water ultimately available or protect water quality. Funds to make critical

improvements in irrigation methods could not be allocated with any assurance that they truly conserved water. NMDA adds that there will be no funds available, for loan or grant, in the irrigation works construction fund useable to match funds for on-farm irrigation efficiency projects.

AMENDMENTS

OSE recommends that on page 1, line 23, after the period insert “A committee composed of the state engineer, the secretary of the department of the environment, the director of the department of game and fish, and the secretary of the department of agriculture or their designees shall be created to make recommendations to the interstate stream commission regarding expenditures from the irrigation works construction fund pursuant to this appropriation.”

BFW/nt